

ORDINANCE NO. 12812

AN ORDINANCE GRANTING UNTO PUBLIX TENNESSEE, LLC, A FRANCHISE TO INSTALL RETAINING WALL TIEBACKS FOR THE AREA LOCATED WITHIN THE 400 BLOCK OF HAMILTON AVENUE, THE 300 AND 400 BLOCKS OF WOODLAND AVENUE, AND THE UNIT BLOCK OF EAST KENT STREET BORDERING ON THE EAST SIDE OF, AND PART OF THE SOUTH SIDE OF TAX MAP NO. 135D-C-014, AS SHOWN ON THE PHOTO AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF REFERENCED IN MR-2013-160, SUBJECT TO CERTAIN CONDITIONS.

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SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That there be and is hereby granted unto Publix Tennessee, LLC (hereinafter "Grantee"), a franchise to install retaining wall tiebacks for the area located within the 400 block of Hamilton Avenue, the 300 and 400 blocks of Woodland Avenue, and the unit block of East Kent Street bordering on the East side of, and part of the South side of Tax Map No. 135D-C-014, as shown on the photo and drawing attached hereto and made a part hereof referenced in MR-2013-160.

SECTION 2. BE IT FURTHER ORDAINED, That this franchise is granted upon the conditions as set forth below:

1. All underground City utilities must maintain their respective easements;
2. Tennessee-American Water Company, Chattanooga Gas Company, AT&T, EPB, and Comcast to retain their respective easements;
3. Grantee will comply with all applicable City ordinances and state laws;

4. Grantee will comply with any special requirements by City Engineer or Chattanooga Department of Transportation with respect to the specific locations of retaining wall tieback anchors;

5. Engineering Design for the tieback anchors will be prepared by a competent geotechnical engineering group, and installation will be performed by a competent licensed contractor;

6. Construction and placement of the tieback anchors will have no adverse effect on any adjacent properties on public right-of-way;

7. Grantee will assume full and complete responsibility for maintenance of the tieback anchors and maintain them in a safe condition during the term of this franchise;

8. City of Chattanooga will suffer no cost of any kind as a result of granting this franchise;

9. Grantee will defend, indemnify, and hold harmless the City of Chattanooga, Tennessee, its officers, employees, successors, and assigns from any and all actions or claims for damages arising out of or related to the installation or maintenance of the tieback anchors; and

10. Grantee provides for approval of evidence of insurance or self-insurance reasonably acceptable to the City to further indemnify the City against losses whatever kind and nature during construction and as a result of the tiebacks being constructed and placed in the right-of-way.

SECTION 3. BE IT FURTHER ORDAINED, That the term of this franchise shall be for a period of forty (40) years.

SECTION 4. BE IT FURTHER ORDAINED, That this ordinance shall not be operative, as distinguished from its effectiveness, unless and until the franchise herein granted is accepted by the Grantee by due execution of the acceptance attached hereto.

SECTION 5. BE IT FURTHER ORDAINED, That this Ordinance shall take effect two (2) weeks from and after its passage.

Passed on second and final reading: March 4, 2014

Yusuf Hakeem  
CHAIRPERSON

APPROVED:  DISAPPROVED:

Ady Berke  
MAYOR

/mms

ACCEPTANCE

The foregoing franchise and its terms and conditions are hereby accepted.

This the 27<sup>th</sup> day of February, 2014.

PUBLIX TENNESSEE, LLC

BY: 

Jeffrey Chamberlain, its Vice President

WITNESS:

  
Kimberley Glerum



City of Chattanooga/Engineering  
400 Blk Hamilton Ave, 300-400 Blk Woodland Ave  
Case: MR 2013-160

